

DATE: August 24, 1987

TO: Councilwoman Gloria McColl

FROM: City Attorney

SUBJECT: Escondido Properties

By memorandum dated August 10, 1987, copy attached, you asked for our opinion relative to the City of Escondido's request to acquire City of San Diego land located in Escondido. You asked specifically:

When there are other potential purchaser's of the property, does the City of San Diego have the authority to sell to these individuals or are we required to offer the parcels to the City of Escondido first?

Please see the attached City Manager's Report dated June 19, 1987. I have also provided as an attachment a copy of Section 54220 through 54232 of the California Government Code.

Those sections basically require a city to first offer its surplus property to other public agencies for specified purposes before disposing of such properties.

The Property Department complied with the requirements of Section 54222 in 1978 when the Escondido parcels were first declared surplus. As noted in the attached Manager's report, the City, because of the substantial time lapse in disposing of the property, intends to proceed once again with offers to public agencies "upon the reaffirmation of these properties for sale," which reaffirmation is, I believe, scheduled by City Council action in September 1987.

You will note that the State Code provisions do not require sale of surplus property for less than full fair market value and that the surplus property must be offered only for:

- 1) Park and recreation purposes;
- 2) open space purposes;
- 3) low and moderate income housing development;
- 4) school purposes; and
- 5) enterprise zone purposes.

Therefore, for example, if the City of Escondido does not wish to acquire the City's property for fair market value for the above purposes, the City of San Diego is free, sixty days after sending the notice of surplus property to the City of Escondido and other public agencies, to negotiate a sale of the property with any person or entity or to put the surplus property up for auction.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug

Deputy City Attorney

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Attachments 3

ML-87-92